



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Bureau of Labor Statistics
Austin, Texas

Gentlemen:

Attention: Mr. Q. E. Steward

Opinion No. O-3459

Re: Does a boiler containing
dowtherm instead of water
and generating dowtherm
vapor at a pressure in
excess of 15 pounds come
under the jurisdiction of
the boiler law of the
State of Texas?

This is to acknowledge your request for our opinion
with reference to the question as stated above.

The original legislative enactment on the subject be-
came effective on June 3, 1937, and was printed as Chapter 436,
page 893 of the General and Special Laws of the Forty-fifth
Legislature - Regular Session, 1937. Certain sections were
amended by the provisions of House Bill No. 419, printed as
Chapter 1, Title: Labor, page 433, General Laws of the Forty-
sixth Legislature, 1939.

In each of the above enactments the word "boiler" is
defined as "any vessel used for generating steam for power or
heating purposes." The caption to the original act declares
it to be "An Act to provide for the inspection of steam
boilers," etc. Section 2, which requires each operator to
have a Certificate of Operation before a boiler may be lawfully
operated, begins as follows: "No steam boiler, unless other-
wise specifically exempted in this Act, shall be operated
within the State of Texas unless such boiler has been register-
ed with the Bureau of Labor Statistics," etc. Section 4 re-
quires the Commissioner of Labor Statistics to make, or cause

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to be made, periodic inspections of both stationary and portable boilers refers to such as "stationary steam" and "portable steam" boilers. And so on through out the body of the Act, the word boiler is almost always prefaced with the word "steam." The emergency clause avers: "The fact that we do not have a law in Texas providing for the inspection of steam boilers creates an emergency," etc.

No different language bearing on the question before us appears in the amendatory act of 1939, supra. The commissioner is empowered to fix and collect fees for the inspection of "steam boilers" only.

Webster's New International Dictionary, 2d Ed., defines "steam" as "the invisible gas or vapor into which water is converted when heated to the boiling point."

Words & Phrases, Perm. Ed., Vol. 40, p. 431, defines "steam" as "the elastic aciform fluid into which water is converted when heated to the boiling point;" citing Reynolds v. Washington Real Estate Co., 49 A. 707, 709, 23 R. I. 197.

In your letter of inquiry you state the boilers in question contain "dowtherm instead of water" and generate "dowtherm vapor." You also apprise us that "dowtherm" is a "special composition of diphenyl and diphenlyoxide" marketed under the trade name of "dowtherm." The question we must determine is whether the gas or vapor produced by boiling "dowtherm" may be at all classified as "steam." It is clear from analysis of the terminology of the legislation hereinabove discussed that your department is limited to the registration and inspection of "steam" boilers; that other types of boilers do not come within the purview of the statutes.

Whether the gas or vapor generated by heating "dowtherm" to its boiling point is "steam" requires technical and scientific knowledge not possessed by us. Accordingly, we consulted Dr. E. P. Schoch and Professor W. A. Cunningham of the University of Texas Chemical Engineering School. We are indebted to them for the information that the boiling of "dowtherm" produces a low-pressure hydro-carbon vapor - never "steam"; that therefore a vessel containing "dowtherm" instead of "water" could in no proper sense be termed a "steam boiler"; that with hydro-carbon vapor produced by boiling "dowtherm" the pressure is always very low as compared to steam; that it is easily controlled and not nearly so dangerous.

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You are, therefore, advised that in our opinion your question should be answered in the negative.

Yours very truly

APPROVED MAY 14, 1941

ATTORNEY GENERAL OF TEXAS

Goodrich
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